

JAN 30 1955

IDWR/NORTHERN

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re CSRB

Case No. 49576

) Claim No:
)
)
) AFFIDAVIT OF JACK A. BUELL IN
) SUPPORT OF THE WATER
) ADJUDICATION CLAIMS OF
) BENEWAH COUNTY, IDAHO
)

STATE OF IDAHO)
) ss.
County of Benewah)

The undersigned, being duly sworn upon oath, deposes and states as follows:

1. My name is Jack A. Buell. I have served as a Benewah County Commissioner since 1973 and I currently am the elected Chair of the Board, consisting of three (3) elected county commissioners.

2. I am submitting this Affidavit on behalf of Benewah County, a political subdivision of the State of Idaho, and our three (3) county road districts in support of two (2) Basin 93 water adjudication claims filed with the Idaho Department of Water Resources in the above-entitled matter.

3. Benewah County was established by the Idaho State Legislature and its corporate boundaries were defined pursuant to Idaho Code 31-107, with an effective date of January 23, 1915. Prior to that date, Benewah County was part of Kootenai County, Idaho.

4. Benewah County, by and through the Board of County Commissioners, is authorized, empowered and required to supervise roads, bridges, and ferries. Idaho Code 31-805 was first adopted in 1913, and it currently states, in part: "The board shall lay out, maintain, control and manage public roads, turnpikes, ferries and bridges within the county, and levy such tax therefor as authorized by law..."

5. Benewah County is divided into three road districts, and each county commissioner is also a Road Supervisor. I am in charge of District 1, Commissioner

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Philip Lampert is in charge of District 2, and Norman L. "Bud" McCall is in charge of District 3. In each of our districts, we utilize water throughout the county for road maintenance and dust control by pumping water from certain designated creeks, streams, rivers, or springs, all of which have been specifically described and set forth in each claim filed by Benewah County as to point of diversion and place of use.

6. Historically, Benewah County has laid out, maintained, controlled, constructed, managed and taken care of the public road system running over and across the county, by and through the Board of County Commissioners and the county road district supervisors. This has included the regular diversion of public waters required for this purpose from various locations throughout the county. I was born in 1936 and I cannot remember a time when a county road crew was not using water pumped or diverted into a water truck for use on the roads in Benewah County.

7. Upon information and belief, the diversion of public waters at designated points throughout Benewah County for use on the county road system has been conducted regularly and in the ordinary course of business since Benewah County was first established in 1915.

8. Benewah County Road District One currently uses two water trucks, a 2,500 gallon water truck and a 4,500 gallon water truck, to pull water from the points of diversion indicated in water adjudication claims. It takes fifteen (15) minutes to fill the 4,500 gallon truck with a water pump.

9. Benewah County Road District Two currently uses two water trucks, a 2,500 gallon water truck and a 6,500 gallon water truck, to pull water from the points of diversion indicated in water adjudication claims. It takes twenty five (25) minutes to fill the 6,500 gallon truck with a water pump.

10. Benewah County Road District Two currently uses two water trucks, a 2,500 gallon water truck and a 6,500 gallon water truck, to pull water from the points of diversion indicated in water adjudication claims. It takes twenty five (25) minutes to fill the 6,500 gallon truck with a water pump.

11. Benewah County has laid out, maintained, controlled, constructed, managed and taken care of the public road system in Benewah County since 1915. Historically, the three (3) road districts have owned and operated pumps, water trucks and other equipment for dust control and abatement similar to the trucks and equipment currently listed above in paragraphs 8, 9 and 10.

12. I have personal knowledge that during my entire lifetime, on and after 1936, Benewah County road crews have diverted water for dust control and abatement, and that the points of diversion, locations where the water was used for dust control along the various county roads, the quantity of water needed for such activities and the water trucks and equipment required for the road districts would have been similar to what we are using today.

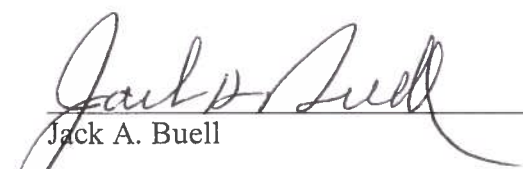
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13. In my capacity as the Chair of the Benewah County Commissioners, upon information and belief, I affirm that since 1915, the historical diversion of water for beneficial use by Benewah County for dust control and abatement on our county roads has been conducted during the customary, regular and ordinary course of county business, as authorized by state law, since 1915.

DATED this 29 day of January, 2015.


Jack A. Buell

SUBSCRIBED and SWORN to before me this 29 day of January, 2015

MARIAH R. DUNHAM
NOTARY PUBLIC
STATE OF IDAHO


Notary Public in and for Idaho
Residing at: St. Maries, Idaho
Commission expires: 4/21/2018